REMARKS/ARGUMENTS

Entry of the above amendments is respectfully requested. Original claims 1 and 15 have been amended to change "the test taker" to "test takers" and to clarify what makes up a "case" for "assessment as an object" in order to overcome the outstanding rejections. Support for the amendments may be found in the specification at page 4, lines 2-14, page 9, lines 3-11, page 14, lines 18-27, page 16, line 18 to page 17, line 5, and in Figures 13-19. The remaining claims are unchanged. No new matter has been added by these amendments.

In the Official Action, claims 1-28 stand rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for lacking proper antecedent basis for the term "test taker." Claims 1 and 15 have been amended to provide proper antecedent basis for the term "test takers." Accordingly, withdrawal of the rejection of claims 1-28 under 35 U.S.C. 112, second paragraph, is respectfully solicited.

In addition, claims 1-6, 14-20, and 28 stand rejected under 35 U.S.C. 103(a) as allegedly being obvious over the combined teachings of Driscoll et al. (US 5,987,302) and Kraft (US 4,978,305). Applicant appreciates the Examiner's indication that the remaining claims (7-13 and 21-27) include allowable subject matter. Withdrawal of the rejection of claims 1-6, 14-20 and 28 is respectfully requested for the reasons given below.

Applicant appreciates the courtesies extended by Examiner Harris during a telephonic interview with Applicant's undersigned representative on February 24, 2004. During that interview, the rejection of the claims over Driscoll et al. and Kraft was discussed as well as what the parties consider to constitute a "case" as set forth in the claims. During the interview, Examiner Harris expressed her view that the claimed "case" corresponds to the "folder" taught by Kraft. Applicant's undersigned representative noted that the claimed "case" is not a "folder" as taught by Kraft. The Examiner invited Applicant to include such arguments in an amendment response for reconsideration. Such arguments are presented below.

Claims 1 and 15 have been amended to clarify what is meant by a "case" in the claims and to distinguish the claimed "case" from a "folder" of the type taught by Kraft. For example, system claim 1 has been amended to clarify that the indicated items are "loosely coupled" to "cases" and that the "cases" including such "loosely coupled" content are assessed as objects by the assessment program. As claimed, such "items" includes "received

constructed responses," "identities of test takers who created received constructed responses" and "scoring models for discrete scorable classifications."

Similarly, method claim 15 has been amended to recite the steps:

loosely coupling items including received constructed responses, identities of test takers who created received constructed responses and scoring models for discrete scorable classifications to cases for assessment of said cases as objects, said cases having different states corresponding to the status of the case in the assessment process;

changing content of respective cases by manipulating links between loosely coupled items; and

storing the cases in a database for access.

Such a system and method are not shown by Driscoll et al. or Kraft.

In the Official Action, the Examiner acknowledged that Driscoll et al. do not disclose relating constructed responses to cases for assessment as an object (12/31/03 OA; page 3, line 23 to page 4, line 1). However, the Examiner alleged that Kraft taught relating constructed responses to "folders," where the folders allegedly correspond to the claimed "cases." Applicant has amended claims 1 and 15 to more clearly distinguish the claimed "cases" from "folders" as taught by Kraft.

In particular, the claimed cases include "loosely coupled items" that "may be manipulated by said assessment program to modify content of respective cases" that are to be assessed as objects by the assessment program. By contrast, a "folder" as taught by Kraft does not include "linked" items that may be manipulated to modify the contents of the folders (cases) for assessment. In other words, if an item in the folders taught by Kraft is modified, the change does not modify the links between loosely coupled items so as to modify the content of respective folders (cases) as claimed as the item in a Kraft folder (case) is not linked or "loosely coupled" to other items in other folders (cases). Kraft suggests the conventional approach of assigning items to a folder and then assessing each of the items in the folder. Kraft nowhere suggests the desirability, much less how, to "dynamically" manipulate the links between a case and the items that make up the case for computerized assessment. In addition, Kraft and Driscoll et al. together suggest assessing individual items

and not the "cases" as claimed. Accordingly, even if the teachings of Kraft could somehow be combined with the teachings of Driscoll et al. as the Examiner alleges, the claimed invention would not result.

CONCLUSION

The prior art relied upon by the Examiner fails to disclose or suggest the claimed invention. Accordingly, the withdrawal of all rejections and issuance of a Notice of Allowability are respectfully requested. In the event the Examiner does not find the amendments and arguments provided herein to be convincing, the Examiner is encouraged to contact the undersigned attorney to discuss any additional amendments the Examiner deems necessary to distinguish the claimed "case" from the folder disclosed by Kraft before issuing a Final Rejection.

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